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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. [redacted] 174

JOHN SOLE,

Petitioner,

versus

MISSOURI PACIFIC RAILROAD COMPANY, and NEW ORLEANS PUBLIC BELT RAILROAD,

Respondents.

On Petition for Rehearing of Denial of Certiorari to the Louisiana Supreme Court.

OCTOBER TERM, 1966

No. 48

DONALD HEIDER,

Petitioner,

versus

MICHIGAN SUGAR CO.,

Respondent.

On Writ of Certiorari to the Supreme Court of Michigan.

No. 388

JEANNE KING,

Petitioner,

versus

VICO INSURANCE CO. OF ST. LOUIS,

Respondent.

On Petition for Rehearing of Denial of Certiorari to the Louisiana Supreme Court.

No. 502

RUSSELL H. SITTON, ET UX,

Petitioners,

versus

AMERICAN TITLE CO. OF DALLAS, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas.

No. _____

ANTOINE BROUSSARD,

Petitioner,

versus

STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.,

Respondent.

On Petition for Certiorari to the Louisiana Supreme Court.

APPLICATION FOR REHEARING OF DENIAL OF CERTIORARI, AND FOR JOINT CONSIDERATION OF PETITIONS AND CAUSES.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1,356

JOHN SULE,

Petitioner,

versus

MISSOURI PACIFIC RAILROAD COMPANY, and NEW ORLEANS PUBLIC BELT RAILROAD,

Respondents.

On Petition for Rehearing of Denial of Certiorari to the Louisiana Supreme Court.

OCTOBER TERM, 1966

No. 48

DONALD HEIDER,

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On Writ of Certiorari to the Supreme Court of Michigan.

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RUSSELL H. SITTON, ET UX,

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No. _____

ANTOINE BROUSSARD,

Petitioner,

versus

STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.,

Respondent.

On Petition for Certiorari to the Louisiana Supreme Court.

APPLICATION FOR REHEARING OF DENIAL OF CERTIORARI, AND FOR JOINT CONSIDERATION OF PETITIONS AND CAUSES.

Movants are petitioners in Case No. 1,356 and in Case No. 388, in which this Court has denied certiorari. They are also petitioners in *Broussard v. State Farm*, application for certiorari in process of being filed, which does not yet have docket number. They now move that rehearing be granted in *King* and in *Sule*, and that all five cases be consolidated or considered jointly. All cases, other than *Broussard*, involve a common question: to-wit, a jury verdict in favor of plaintiff was overturned by trial or appellate court on questions of fact, not involving lack of substantial evidence in support of the jury verdict, but a substitution by the Court of its own opinion as to the verdict the jury should have returned. They also involve a common question of law: to-wit, is the Seventh Amendment prohibition against re-examination of jury verdicts made applicable to the States by reason of Amendment Fourteen? In all said cases the Courts either granted judgment notwithstanding verdict, or reversed and rendered judgment on appeal, without remanding for new trial.

The *Broussard* case likewise presents the broad question as to whether the provisions of Amendment Seven were made applicable to the States by Amendment Fourteen, and presents the same question of appellate court review of facts and rendition of judgment, but otherwise is dissimilar, and presents apparently an even greater exhibition of an appellate court actually depriving a plaintiff of his right to trial by jury. In *Broussard*, the trial judge committed serious errors to the prejudice of plaintiff, and the jury returned a verdict in favor of defendant. The Louisiana Court of Appeal stated:

> For the reasons to be stated below, we think that prejudicial error was committed in the exclusion and in the admission of certain evidence.
>
> We are thus unable to accord the usual weight to the jury verdict. Such findings by the trier of

fact are on review usually accepted in the absence of manifest error; this usual role cannot apply where there is a reasonable possibility that the trial jury's finding was incorrectly based due to prejudicial rulings incorrectly excluding or admitting evidence by reason of which the jury might have reached a contrary verdict.

* * * * *

* * * Counsel contends that the verdict is in error as a result of two prejudicially erroneous evidentiary rulings by the trial court;

(1) The trial court's failure to permit the plaintiff Broussard to introduce all of a discovery deposition taken from him, after the defendant State Farm had questioned him as to isolated excerpts contained therein;

(2) The trial court's overruling the plaintiff's counsel's objection to interrogation of the plaintiff requiring his compromise of his claim against Martin, the alleged joint tortfeasor, and requiring him to testify as to the same.

For the reasons to be set forth below, we think these contentions are correct and accordingly have determined the merits independently of the jury verdict.

* * * * *

Since we have determined that the trial jury's verdict should be disregarded because of the prejudicial exclusion of the plaintiff's discovery deposition and because of the prejudicial admission of evidence of the compromise, it is unnecessary for us to discuss other allegations of error in rulings or instructions to the jury, which without discussion we will simply state we do not find to be well-founded.

Despite a detailed consideration of the prejudicial errors committed by the trial court in *Broussard*, and re-

peated an unequivocal statement of the Louisiana Court of Appeal that such errors constituted serious prejudice to plaintiff, said appellate court affirmed the verdict and judgment of the lower court, stating:

> After reviewing the entire record, including a deposition of the plaintiff taken prior to trial which was incorrectly excluded from the evidence submitted to the jury, we have concluded that the preponderance of the evidence supports the jury's special verdicts and that the trial court's judgment should therefore be affirmed.

It is to this that the arrogant disdain with which judges view trial by jury has brought us. In *Broussard*, plaintiff asked for and received trial by jury, the jury returned a verdict against plaintiff because of serious and repeated errors made by the trial court, the appellate court recognized and denounced the errors of the trial court, specifically finding them to have been seriously prejudicial to plaintiff, whereupon the appellate court did not remand the case for new trial, but stated an opinion that the evidence considered as a whole preponderated in favor of defendant.

On application to the Louisiana Supreme Court for writ of review, that Court tersely stated, "Writ refused. **On the facts found by the Court of Appeal,** the result is correct."

To this extent has trial by jury been made an empty shell by the over-weening self-esteem of the judiciary, a trait unfortunately not confined to state courts.

HEIDER V. MICHIGAN SUGAR CO., 375 MICH. 490, 134 N.W. (2d) 637

This was a wrongful death action, following the death of two small boys by drowning during the winter in a pond that was frozen over, but not solidly frozen because of the

concentration of industrial waste in the water, the apparent condition of the ice being deceptive and dangerous. Plaintiff's action rested largely upon "attractive nuisance", and the evidence further disclosed that adults frequently hunted and trapped near the pond, that children frequented the area, that small footprints had been seen and the pond had been used for skating. The jury had replied in the affirmative to the following special interrogatories:

> 1. Did the company know or should it have known that children were likely to trespass?
>
> 2. Did a condition exist as to which the company knew or should have known, involved an unreasonable risk of death to child trespassers?
>
> 3. Was the utility of maintaining the pond in this condition slight as compared to the risk to child trespassers?

The Michigan Supreme Court held the issue to be, "Was the verdict and judgment in each case against the clear preponderance of the evidence and contrary to the great weight of the evidence?" In so stating the issue, that Court departed from the common law rule that the verdict of a jury may be overturned only when there is no substantial evidence on which such verdict could have been based, but may not be reversed when such evidence does exist, merely because the appellate court may be of the opinion that a preponderance of the evidence is to the contrary.

SITTON V. AMERICAN TITLE CO.,
396 S.W. (2d) 899

Plaintiff, owner of a home subject to mortgage guaranteed by the Veteran's Administration, entered into an agreement with one Moorman to trade this home for one owned by Moorman, the latter to assume the mortgage on

plaintiff's home, the agreement being conditional upon plaintiff being able to secure a mortgage loan with respect to the Moorman house. The condition having been met, plaintiff and his wife signed the act of sale before Mrs. Brown, Notary, and manager of defendant title company. More than two weeks elapsed before Mrs. Brown recorded the act of sale, and when it was recorded the name of Moorman had been erased in several places, and the act changed to show the purchaser to be one Trout, employee of Moorman, who promptly defaulted on the mortgage payments, and the government foreclosed, leaving a deficiency judgment against Sitton.

Liability rested upon the issue of who caused the alteration of the document, whether the change was with the knowledge and consent of plaintiff, and whether two or more persons were concerned in the alteration.

Plaintiff and his wife testified that when they signed the act before Mrs. Brown, the document named Moorman as the purchaser. Mrs. Brown testified that she had been instructed to make such alteration, and admitted the long delay before recordation; she testified she had been instructed to make such alteration. Moorman testified that he had given such instruction, and the remainder of his testimony, in which he professed not to remember anything at all, is patently spurious. A VA employee testified that Moorman had told him that he, Moorman, had directed Mrs. Brown to alter the instrument and that she had done it, and that Mrs. Brown had admitted it to him.

In addition to the monetary loss sustained, plaintiff and his wife suffered emotional trauma, which resulted in physical injury to the wife and a regression to a childhood speech defect on the part of plaintiff. The jury found for plaintiffs in every respect, and the trial court then entered

judgment notwithstanding verdict. The Texas Court of Civil Appeals stated "we think" that plaintiffs' injuries did not "naturally flow" from, nor were they "directly or immediately caused" by, the alteration of the deed.

Plaintiff's application for writ of error was refused by the Supreme Court of Texas, without opinion.

KING V. VICO INSURANCE COMPANY, 182 SO. (2d) 135

This was a suit based upon physical injuries by an automobile passenger, brought against the public liability insurer of the owner and driver of the automobile. Louisiana has a "direct action" statute authorizing suit by an injured person directly against the offender's insurer. Louisiana has no guest passenger statute. The automobile was proceeding along a street so narrow that there was hardly more than room for one automobile to pass between the automobiles parked on both sides of the street, when a dog first walked into its path, turned and went back, and then ran out again, at which time the driver applied the brakes so forcefully that plaintiff was thrown against the windshield, her head breaking the glass thereof, plaintiff sustaining head and neck injuries. Defendant relied primarily on the contention that the driver was "acting in a sudden emergency not of her own creation." The jury was properly instructed with respect to sudden emergency and unavoidable accident, as well as the legal effect of any evidence relating to speed of the automobile, and the jury returned a verdict for plaintiff.

The Louisiana Court of Appeal reversed on questions of fact, Louisiana appellate courts being authorized by the constitution of that State to review in civil cases the facts as well as the law, as a consequence of which civil jury

trials in Louisiana have been extremely rare until very recent years, inasmuch as the cost to plaintiff for a jury trial is generally about $750.00 more than the cost for a judge trial, and it has scarcely seemed a justified expense for either party when the Louisiana appellate courts make independent determinations of fact from the record.

However, in recent years the Louisiana Supreme Court has held that an appellate court may reverse a jury verdict only when the latter is obviously "in manifest error". *Gaspard v. Lemaire*, 245 La. 39, 158 So. (2d) 149; *Ballard v. National Indemnity Co.*, 246 La. 963, 169 So. (2d) 64.

Even so, the manifest error rule has received no more than lip service from the inferior appellate courts of that State (*Luquette v. Bouillion*, 184 So. (2d) 766), and the appellate courts of Louisiana have tenaciously asserted their right to review the facts, even though there is substantial evidence to support the verdict of the jury. *Fontenot v. Marquette Casualty Co.*, 161 So. (2d) 467; *Dore v. Hartford Accident and Indemnity Co.*, 180 So. (2d) 434.

Moreover, even the "manifest error" rule announced in the *Ballard* case is contrary to the common law limitation of appellate review of jury verdict.

In reversing the jury verdict in *King*, the Louisiana Appellate Court stated, "We are convinced that Miss Ray operated her car in a normal way * * *." (Emphasis supplied)

SULE V. MISSOURI PACIFIC, 181 SO. (2d) 280

Plaintiff, operating a mobile crane, was injured as a consequence of a collision with defendant's train. The grade crossing contained five sets of railroad tracks, and the crane, a slow-moving vehicle, had a boom extending

25 feet in front. When plaintiff became aware of the approaching train about 250 feet away, at which time the train was moving at about 10 miles an hour, plaintiff could not be certain upon which set of tracks the train was approaching, and it was too late for him to have backed off the tracks so that the boom would not be extending over them, so he sought to continue with the crossing, but was struck by the train.

The jury was instructed with respect to negligence, contributory negligence, and the doctrine of last clear chance, and no fault was found with the court's instruction to the jury, which brought in a verdict for plaintiff.

The Louisiana Court of Appeal reviewed the evidence, and decided to accept the testimony of defendant's engineer and fireman that the train was not as much as 250 feet from the crossing when the crane came upon the tracks, and further found that the train could not have been stopped in this shorter distance.

Judgment in favor of plaintiff was reversed, and judgment rendered in favor of defendant by said appellate court.

On application for writ of review, the Louisiana Supreme Court merely stated, in denying the application, "Writ refused. **On the facts found by the Court of Appeal,** there is no error of law in its judgment." 182 So. (2d) 664.

BROUSSARD V. STATE FARM, 188 SO. (2d) 111

This was a suit by an injured passenger in an automobile which was proceeding through heavy fog when it collided with a larger trailer truck which was making a left turn, all of the trailer except the last 8 feet or so having cleared the highway. Plaintiff, who sustained multiple

and serious injuries, including skull fracture and brain damage, which resulted in progressive loss of memory, filed suit against the driver and the owner of the truck, and their alleged liability insurer, and against the liability insurer of the driver of the car in which plaintiff was a passenger. While the latter insurer, State Farm, first pled contributory negligence as a defense, this was specifically withdrawn on the day of trial, so that the only issue with respect to State Farm was that of any negligence on the part of its insured.

The other insurer, National Indemnity, denied that it was the carrier for the owner or operator of the truck, and numerous depositions were taken of witnesses in the western part of Texas. This evidence disclosed that the truck had been purchased about 3 days before the accident, that the purchaser had gone to a local insurance salesman and had requested coverage, that the salesman had then placed a long distance telephone call, presumably to a general agent in another city, and had not told the purchaser that he would be covered, that about 10 days after the accident, the owner traded this truck for another, and then requested insurance coverage from the same local agent, after which a policy issued from National Indemnity covering this new truck, but that no policy was ever issued with respect to the truck involved in the accident, and the owner was not informed as to the identity of the insurance company that presumably was to cover the first truck, nor did he ever pay any premium for such coverage.

These depositions likewise disclosed that any judgment obtained against either the driver or the owner of the truck involved in the accident would be worthless, because of the poverty of those defendants. Consequently, on the morning of trial, in view of the very serious dispute as to insurance coverage, plaintiff entered into a verbal

agreement whereby the driver and the owner of the truck, and the alleged insurer thereof, would subsequently be given a restricted release in return for payment of $15,000.00 made by said insurer.

Trial then proceeded against the insurer of the automobile in which plaintiff had been a passenger, plaintiff adopting alternative positions. First, he sought to recover under the public liability portion of State Farm's policy, because of negligence on the part of the driver which caused or contributed to the accident. Second, and alternatively, he sought to recover under the "uninsured motorist" provision of State Farm's policy, under which he would be entitled to recover if his driver were found to be free of negligence, and the driver of the truck was found to have been not covered by public liability insurance.

During the trial, plaintiff testified that, as a consequence of his head injuries, plaintiff had suffered a progressive loss of memory, that he had suffered some loss of memory by the time his deposition on oral examination had been taken after the accident but many months before trial, and that he had suffered further loss of memory since the time his deposition had been taken.

During the trial, after such testimony had been given, defendant's attorney sought to question plaintiff with respect to his previous deposition, primarily concerning his statement at that time to the effect that he did not know what his driver could have done to have avoided the accident. Plaintiff answered that he remembered having given a deposition, but had no recollection of specific questions or answers. Plaintiff's counsel objected then to an effort by defendant's counsel to read from the deposition, basing the objection upon the fact that such reading could not refresh plaintiff's recollection, that a plaintiff could not be compelled to express an opinion as to the driver's negli-

gence, this being a question for the jury to determine (when the deposition had been taken, the parties had stipulated that objections could be urged for the first time if any part of the deposition was sought to be used at the time of trial for any purpose), and that the brief portion of the transcript which defendant's counsel proposed to read, and the portions which he did afterward read, were taken out of context and were misleading.

The Court overruled the objection, and permitted defendant's counsel to read the brief excerpt from the deposition, after which plaintiff's counsel asked to have the entire deposition read, or at least all portions relative to the issue, and when this was denied, plaintiff's counsel subsequently sought to offer the entire deposition in evidence, and the Court likewise refused to permit this.

As has been mentioned, the Louisiana appellate court found these rulings to be directly contrary to the Louisiana statute, and likewise found the portions of the transcript read by defendant's counsel to have been taken out of context, and such reading to have been highly prejudicial to plaintiff, and the Court's rulings with respect to the use of the deposition to have been totally erroneous and substantially prejudicial to plaintiff's case.

In addition, defendant's counsel was permitted to question plaintiff concerning the compromise agreement he had entered into with the other defendants. (By specific Louisiana statute, no such compromise has any effect until it has been reduced to writing.)

Over timely objection by plaintiff's counsel, the Court permitted such questioning, under the stated belief that same was being done for the limited purpose of the legal effect such a restricted release might have on the ultimate liability of State Farm, in the event of a verdict in favor

of plaintiff. In this, the Court was plainly in error, as such legal effect could not have been determined by the jury, but would have been a question of law to have been applied by the Court after the jury had answered the special interrogatory fixing the monetary amount of damages.

Moreover, it was always plain to everyone but the trial court that defendant's purpose in presenting such evidence was solely for other purposes, that is, as proof that the truck driver was not an "uninsured motorist", and that plaintiff was to receive $15,000.00 from the former defendants, thereby hoping to induce the jury to deny plaintiff any recovery from the insurer of his friend, driver of the car in which plaintiff had been a passenger.

Such purpose was specifically carried out in the argument of defendant's counsel to the jury, the portions of such argument having been taken down by the reporter, and made part of the record on appeal.

In this respect also, the Louisiana appellate court noted the reasons given by the trial judge for having admitted such evidence, and held that the trial court committed serious error in doing so. The appellate court also called attention to the closing argument made by defendant's counsel, and held specifically that the ruling of the Court had substantially prejudiced plaintiff's case, and was utterly contrary to law.

Except for the testimony concerning the compromise agreement, there has never been and is not now in the record any evidence whatsoever with respect to insurance coverage on the part of National Indemnity, defendant's counsel having argued to the jury that said insurer would not have agreed to pay $15,000.00 if it had not insured the owner and operator of the truck. In the total absence of such evidence, plaintiff had to recover either because of the

negligence of his driver or because the truck driver was an uninsured motorist, inasmuch as State Farm had abandoned its defense of contributory negligence.

In returning a verdict against plaintiff, the jury answered special interrogatories, one of these stating that State Farm's driver had not been negligent, and another finding that the operator of the truck had been covered by public liability insurance.

Having found that the trial court had committed at least two serious errors of law, which manifestly operated to the prejudice of plaintiff's case, and having stated this categorically and in considerable detail, the Louisiana appellate court then held that the record as a whole would have justified the jury's verdict, and proceeded then to affirm the judgment.

The jury having found no negligence on the part of State Farm's insured, it would have followed as a matter of law that plaintiff would have been entitled to a judgment against State Farm, under the "uninsured motorist" provision of its policy, unless there were a policy of public liability covering the truck driver, and since there was no evidence whatever to show such insurance coverage, other than the implication that was drawn from testimony concerning the compromise, which the appellate court held had been erroneously admitted, the record certainly did not support the decision with respect to recovery under the "uninsured motorist" provision.

It might be added here that State Farm did not offer transcript of the depositions of the witnesses in Texas, and that plaintiff offered the transcript of the deposition of the local insurance salesman there, wherein he denied that he had ever told the owner of the truck that he was covered.

In stating that it had examined the entire record, said

appellate court necessarily meant that it was also considering the very evidence which it had ruled to have been illegally admitted, because aside from such illegally admitted evidence, there was nothing whatever in the record to have supported the jury's verdict, at least with respect to recovery under the "uninsured motorist" provision.

Timely application for rehearing was denied, and on application to the Louisiana Supreme Court for writ of review, that Court held, "Writ refused, On the facts found by the Court of Appeal, the result is correct."

COMMON QUESTIONS PRESENTED

In all five of the cases here sought to be consolidated, the appellate court made independent review of the record, and based its decision upon its interpretation of the facts, and not upon a question of law. In all cases, the appellate court did not remand for new trial, but entered judgment.

In all five cases, there was presented to the appellate court the question of the effect of Amendment Fourteen upon Amendment Seven of the United States Constitution; in *Broussard*, the question was the complete denial of jury trial, even though jury trial had been granted and plaintiff could not be deprived of such. Thus, the question was whether plaintiff had been illegally deprived of right to trial by jury, and whether the appellate court had reexamined in a manner contrary to common law.

In the other four cases here sought to be consolidated, it is not contended, as it is contended in *Broussard*, that the ruling of the trial court deprived plaintiff of trial by jury, the issue being the effect of the last portion of Amendment Seven, and whether same, by virtue of Amendment Fourteen, applies to proceedings in State Courts.

There can be no question as to whether each of the

State Courts here in question has acted in a way contrary to common law principles referred to in Amendment Seven.

The common question presented by all five cases is whether all or any part of Amendment Seven has been made applicable to the states by reason of Amendment Fourteen.

The additional issue presented by *Broussard* is whether he has been deprived of due process of law, under Amendments Five and Fourteen, in that Louisiana having provided for jury trial in civil cases, Broussard having obtained such trial by jury, the jury having heard his case, and having reached an adverse verdict as a consequence (as the appellate court asserted), of at least two serious and substantial errors committed by the trial court, an independent ruling upon the facts by the appellate court amounted to a deprival of trial by jury, especially when the record, aside from the evidence found by the appellate court to have been inadmissible, was utterly barren of any evidence contrary to plaintiff's claim under the alternative of the "uninsured motorist" provision.

It requires no more than a cursory reading to ascertain that the courts of Michigan, Texas and Louisiana, in these cases, consider themselves free to follow a course far removed from the standard insisted upon by this Honorable Court, and with respect to this, and in all other respects, the instant motion adopts by reference all material portions of the record, pleadings and briefs in *Heider* and *Sitton*.

With respect to *King*, *Sule* and *Sitton*, this Court has heretofore denied certiorari, and rehearing is now being requested.

It is understood that this Court has granted certiorari in *Heider*, thereby indicating that it intends to answer the

common questions presented in all cases, and it would deprive other applicants of equal justice if this Court considered one case and denied other applicants who were contemporaneously seeking to present the same question.

With respect to *Broussard*, inasmuch as it involves the common general issue, the application for certiorari now being presented in that case should also be granted, and even though *Broussard* presents a different specific issue, although the same general issue of the applicability of Amendment Seven (plus direct application of Amendments Five and Fourteen), that case should likewise be consolidated with the others.

Since certiorari has been granted in *Heider*, there exists no legitimate reason for this Court to turn away from its doors other applicants who stand in the same position and who have from the earliest possible opportunity sought to raise the same constitutional questions, whereas a consolidation of all five cases, including *Broussard*, will best permit this Court the opportunity to consider the possible ramifications of the questions here involved, as they relate to the fundamental right of trial by jury, and to determine whether the right to trial by jury, anywhere in this land, and the common law principles without which trial by jury can be only a mockery, can be denied even under the guise of having granted same.

In the event that the Court should decline to consolidate some or all of these cases, it is requested that joint consideration be given to them, at least to the extent that the cumulative particulars point out the necessity for clear decision by this Court in each case.

Should the Court decline to consolidate the cases otherwise, it is suggested that all three of the Louisiana cases should be consolidated. In all three of these cases (*King*, *Sule* and *Broussard*), the Louisiana Courts of Appeal ren-

dered judgment based upon the appellate court's evaluation of the facts, and when the respective plaintiffs sought writs of review from the Louisiana Supreme Court, the ruling in each case was, "On the facts found by the Court of Appeal, the result is correct." Thus, the Courts of Appeal in Louisiana are making rulings on facts without reference to the verdicts of a jury, and plaintiff's are being then deprived of any further review, since the Louisiana Supreme Court is consistently declining to review the facts, but is accepting the facts as found by the Court of Appeal, so that such litigants are in Louisiana being deprived of due process under Amendments Five and Fourteen, inasmuch as appellate review of facts is not limited to the Courts of Appeal.

Respectfully submitted,

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CERTIFICATE

STATE OF LOUISIANA
PARISH OF ORLEANS:

I, J. Minos Simon, counsel for petitioner and a member of the United States Supreme Court, hereby affirm under oath that a copy of the foregoing petition has been served on the parties hereto by mail, in a properly addressed envelope, postage prepaid, as follows, to-wit:

Honorable Melvin J. Keenan, Clerk,
Louisiana Court of Appeals, Fourth Circuit,
New Orleans, Louisiana.

Mr. Val J. Courville, Clerk
Louisiana Supreme Court,
New Orleans, Louisiana.

Porteous & Johnson,
Hibernia Building,
New Orleans, Louisiana.

Phelps, Dunbar, Marks, Claverie & Sims,
Hibernia Building,
New Orleans, Louisiana.

_____
J. MINOS SIMON

Sworn to and subscribed
before me this _____ day
of November, 1966, at
New Orleans, Louisiana.

_____
NOTARY PUBLIC

CERTIFICATE

STATE OF LOUISIANA
PARISH OF ORLEANS:

I, J. Minos Simon, counsel for petitioner and a member of the United States Supreme Court; hereby affirm under oath that the foregoing petition is submitted in good faith and not for purposes of delay.

J. MINOS SIMON

Sworn to and subscribed
before me this _____ day
of November, 1966.

NOTARY PUBLIC